

AMENDED IN ASSEMBLY MARCH 24, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 496

Introduced by Assembly Member Davis

February 24, 2009

An act to add Chapter 12 (commencing with Section 108950) to Part 3 of Division 104 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

AB 496, as amended, Davis. Tire age degradation: consumer disclosure.

Existing law provides for the establishment and enforcement of various product safety standards for consumer products, including, among others, requiring specified warning labels for water heaters, and prohibiting the sale of contaminated toys and lead-tainted tableware.

This bill would require a tire dealer to disclose the age of each *automobile* tire in writing ~~at the time of sale in a consumer-friendly manner prior to the sale or installation of that tire~~. The bill would require sale documents for tires to include a statement as to the age of the tires, next to which the customer would be required to initial prior to purchase. The bill would require tire dealers to retain those sale documents for at least 3 years. *The bill would require a tire dealer to provide a written disclosure to the customer prior to the sale or installation of any tire about the risk associated with tire age in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, and to provide a clear and conspicuous written disclosure to the customer of the length of the remaining factory warranty on any tire sold as new or used.* The bill would provide that any violation of its provisions is subject to a

civil penalty of \$250 per violation. *The bill would authorize a person who did not receive these disclosures prior to the sale or installation of any tire to bring a civil action for injunctive relief, and would authorize the court to award to the plaintiff the \$250 civil penalty and attorney's fees and costs, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Testing and real-world data has shown that tires have a much
4 greater propensity to fail as they age. As tires age, they ~~can dry~~
5 ~~out~~ *experience chemical degradation* and become brittle, leading
6 to potentially catastrophic tire tread separations. Hot climates
7 accelerate tire degradation. According to the research firm, Safety
8 Research & Strategies, 167 vehicle crashes have been attributed
9 to aged tires, with 192 injuries and 139 fatalities.

10 (b) In a 2007 report to Congress, the National Highway Traffic
11 Safety Administration (NHTSA) acknowledged that “tire aging is
12 a serious safety issue.” NHTSA also reported that insurance
13 statistics from a number of states, *including California*, showed
14 that 84 percent of tire-related claims were for “tires over 6 years
15 old.”

16 (c) ~~Since 2006 many of the 2005, major~~ tire manufacturers have
17 issued technical bulletins advising against the use of tires that are
18 six to 10 years old, ~~but they default to the.~~ *However, most defer*
19 *to* vehicle manufacturers’ guidelines, which are predominantly six
20 years. These bulletins were preceded by others overseas, like the
21 2001 British Rubber Manufacturers Association, which includes
22 all of the major tire makers or their subsidiaries.

23 (d) The tire industry, vehicle manufacturers, and NHTSA
24 recognize that tire age degradation presents a hazard. However,
25 the outreach to consumers has been virtually nil.

26 (e) Vehicle and tire manufacturers have recommended light
27 truck and passenger tires older than six years from the date of
28 manufacture should not be used, particularly spares. Currently,
29 nearly all vehicle manufacturers have adopted a six-year policy
30 warning that tires should be removed from service after six years,

1 regardless of tread depth or use. Unfortunately, these warnings are
2 often inconspicuously buried in the depths of a several hundred
3 page owner's manual.

4 (f) The age of tires can be determined by checking the
5 identification number on the sidewall that begins with the letters
6 "DOT." The last four digits represent the week and year the tire
7 was manufactured. However, this code is inconspicuously
8 positioned on the tire, and a consumer would not likely be able to
9 understand the DOT number unless he or she had prior knowledge
10 about how to decode it.

11 (g) Consumer disclosure is an important step to prevent tragedies
12 that continue to occur when aged tires fail catastrophically.

13 SEC. 2. Chapter 12 (commencing with Section 108950) is
14 added to Part 3 of Division 104 of the Health and Safety Code, to
15 read:

16
17 CHAPTER 12. TIRE AGE DEGRADATION
18

19 108950. (a) A tire dealer shall disclose the age of each
20 ~~automobile tire in writing at the time of sale in a consumer-friendly~~
21 ~~manner prior to the sale or installation of that tire.~~ Sale documents
22 for tires shall include a statement as to the age of the tires, next to
23 which the customer shall initial prior to purchase. Sale documents
24 containing the initials of a customer as required by this section
25 shall be retained by the tire dealer for at least three years.

26 (b) (1) *A tire dealer shall provide a written disclosure to the*
27 *customer prior to the sale or installation of any tire about the risk*
28 *associated with tire age in English, Spanish, Chinese, Tagalog,*
29 *Vietnamese, and Korean, as follows:*

30 *"Tires deteriorate with age, even if they have never or seldom*
31 *been used. As tires age they are more prone to sudden failure that*
32 *can cause a vehicle to crash. This applies also to the spare tire*
33 *and tires that are stored for future use. Heat caused by hot climates*
34 *or frequent high loading conditions can accelerate the aging*
35 *process. Most vehicle manufacturers recommend that tires be*
36 *replaced after six years, regardless of the remaining tread depth."*

37 (2) *The disclosure required pursuant to paragraph (1) is not*
38 *admissible against the plaintiff in a civil action for product liability*
39 *or personal injury.*

1 (c) A tire dealer shall provide a clear and conspicuous written
2 disclosure to the customer of the length of the remaining factory
3 warranty on any tire sold as new or used.

4 ~~(b)~~

5 (d) For purposes of this chapter, both of the following shall
6 apply:

7 (1) "Tire dealer" shall include any retail tire outlet and any
8 commercial retailer of any vehicle equipped with tires.

9 (2) "Tire" shall include both new and used tires.

10 ~~(e)~~

11 (e) This chapter shall not apply to the private sale of used tires
12 or any used vehicle.

13 108952. Any violation of this chapter is subject to a civil
14 penalty of two hundred fifty dollars (\$250) per violation.

15 108954. (a) A person who did not receive the disclosures
16 required pursuant to this chapter prior to the sale or installation
17 of any tire may bring a civil action in a court of competent
18 jurisdiction. The court may grant injunctive relief in any action
19 brought pursuant to this section to enforce the requirements of
20 this chapter, and may award to the plaintiff the civil penalty
21 provided for in Section 108952. The defendant shall be liable for
22 payment of only one civil penalty pursuant to either Section 108952
23 or this subdivision with respect to each violation of this chapter.

24 (b) Whenever the person bringing the action pursuant to this
25 section is the prevailing party, he or she shall be awarded
26 attorney's fees and costs by the court.